

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE	
REPLY TO EXAMINER'S ANSWER MAILED 08/24/2007	Atty. Docket No. VIGN1410
Applicants: Robin D. Wilson	
Application Number 09/989,814	Filed 11/20/2001
For Hierarchical Asset Sharing Model	
Group Art Unit 2178	Examiner Paula, Cesar B.
Confirmation No. 1585	

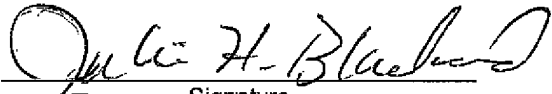
Mail Stop Appeal Brief - Patents

Commissioner of Patents

P.O. Box 1450

Alexandria, VA 22313

Dear Sir:

<u>Certification Under 37 C.F.R. § 1.10</u>
I hereby certify that this correspondence is being deposited electronically using the United States Patent Office EFS-Web system on October 24, 2007 .
 <small>Signature</small> Julie H. Blackard <small>Printed Name</small>

The Examiner in the above-identified application issued an Answer to Appeal Brief on August 24, 2007. Accordingly, attached is Applicant's Reply to Examiner's Answer to Appeal Brief.

Reply to Examiner's Answer

1 Introduction

The Examiner rejected Claims 1-8, 17-19 and 21-30 under 35 U.S.C. §103 as unpatentable over MyYahoo.com Help Pages ("Yahoo"), in view of U.S. Patent No. 5,983,227 ("Nazem") and/or U.S. Publication No. 2002/00781040 ("Kelly") and Claims 17-19 under 35 U.S.C. §112, first paragraph. Applicant filed a notice of appeal with respect to these rejections on December 15, 2006.

The Examiner responded to the Appeal Brief filed by the Appellant on April 24, 2007 with a Notice of Non-Complaint Appeal Brief. Applicant replied to the Notice of Non-Compliant Appeal Brief on May 9, 2007. The Examiner responded to the Reply to Notice of Non-Complaint Amendment with the Examiner's Answer mailed August 24, 2007. In the Examiner's Answer the Examiner has withdrawn the rejection of Claims 17-19 under 35 U.S.C. §112, first paragraph. Thus, only the rejection of Claims 1-8, 17-19 and 21-30 under 35 U.S.C. §103 remains.

2 Overview of Claimed Embodiments

Generally, the invention comprises systems and methods for sharing assets between web sites (See Application, "App," summary of the invention, ¶¶ 7, 9, 26 and p. 4, ll. 5-8). More particularly, embodiments of the present invention allow for the sharing of assets between web sites which are hierarchically related without having to re-write code for the web-sites or necessarily make copies of the assets so that they may be shared (See App ¶¶ 10, 41). This sharing may occur according to one of four modes: NONE, CO-OWN, INHERIT or IMPOSE. (See App ¶¶ 26, 29, 31-38, 45-47). Thus, assets of a parent web site may be associated with one of the four modes with respect to the particular child web site (See App ¶¶, 53-57) and the child web site may share these assets with the parent web site according to the mode associated with each of the assets.

More particularly, if an asset is shared between a parent web site and a child web site according to the NONE mode, the child cannot share the asset with the parent web site. If the

asset is shared between the parent web site and the child web site using the "IMPOSE" mode the child web site can utilize the asset as-is and cannot modify or delete the asset. If the asset is shared between the parent web site and the child web site using the "INHERIT" mode the child web site can utilize the asset as-is and changes made to the asset at the parent web site are reflected at the child web site. Under this asset sharing mode if the child web site wishes to modify the asset a copy of the asset is made and the modifications are made to the copy of the asset which is then stored at the child web site. If the asset is shared between the parent web site and the child web site using the "CO_OWN" mode the child web site can utilize, modify or delete the asset. Any changes (e.g. modifications or deletions) made to the asset at the child web site are reflected at the parent web site. Likewise, changes made to the asset at the parent web site are reflected at the child web site. (See App ¶¶ 26, 29, 31-38, 45-47)

This sharing may be accomplished through the use of a reference to the parent's assets (See App, ¶¶ 28, 45-47). Thus, if an asset is shared between a parent web site and a child web site (e.g. using the "INHERIT" mode) it may be "copied on change," meaning that if a child-web site wishes to modify a reference asset, a copy of the asset is made and the modifications are made to the copy of the asset and the copy stored at the child site. After the asset has been copied it is no longer shared with the parent web site. (See App, ¶¶ 28, 33-37, 45-47). In this manner, embodiments of the present invention allow assets or features of a website such as images, documents, page layout components etc. to be shared among web-sites which have a hierarchical relationship with one another.

3 Rejections Under 35 U.S.C. § 103

Claims 1-8 stand rejected under 35 U.S.C. §103 as unpatenable over MyYahoo.com Help Pages ("Yahoo"), in view of U.S. Patent No. 5,983,227 ("Nazem").

Claims 17-19 and 21-29 and 30 stand rejected under 35 U.S.C. §103 as unpatenable over MyYahoo.com Help Pages ("Yahoo"), in view of U.S. Publication No. 2002/00781040 ("Kelly").

The Yahoo (MyYahoo.com Help Pages, Archive.org, 1999) prior art comes from a web site called the "Internet Archive" (www.archive.org), which preserves internet pages. Thus, the

Yahoo prior art cited by the Examiner is a set of screen captures obtained from this Internet Archive.

4 Response to Examiner's Argument Concerning Claim 1

First and foremost, Applicant notes that as stated in the M.P.E.P and elsewhere the goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity. Applicant genuinely believes that in this case the Examiner's vagueness with respect to his citations of the prior art and the lack of explanation in the rejection concerning the Examiner's belief about the capabilities of the prior art, or how the Examiner believes the prior art functions to accomplish these capabilities, has severely hindered the prosecution of this case as it has hampered the ability of the Applicant to provide evidence of patentability by responding in detail to the Examiner's rejections.

This problem is exacerbated by the general nature of the Yahoo prior art. The Yahoo prior art consists of a set of screen capture of web pages. Some of these screen captures pertain to web pages which pertain to the capabilities of a MyYahoo website. However, there is no explanation on any of these screen captures about how any of this functionality is accomplished. Thus, if the Examiner does not clearly articulate how he believes the Yahoo prior art shows the claimed functionality and cite to sections in the Yahoo prior art which disclose how Yahoo accomplishes this functionality the Applicant cannot adequately respond nor properly prove the patentability of his claims.

Turning now to the limitations of Claim1, Claim 1 recites:

A web site system comprising:
a server; and
two or more web sites operating on the server;
wherein one of the web sites is a parent and one of the web sites is a child of the parent; and
wherein the parent has one or more assets used in the presentation of the web site and wherein the parent and child are configured to share each of the assets using one of a set of modes consisting of:
a first mode in which both the parent and child can utilize the asset, but only the parent can modify the asset,
a second mode in which both the parent and child can utilize the asset, and both the parent and child can modify the asset, and
a third mode in which the parent can utilize and modify the asset, but wherein the child can utilize the asset until the child attempts to modify

the asset, at which time a copy of the asset is generated and the child can utilize and modify the copy of the asset.

The Examiner first asserts that the language of Claim 1 only requires that only one of the three modes of Claim 1 has to be performed to meet the requirements of the claim language. Applicant disagrees with that assessment. The Examiner has chosen to interpret the limitations of Claim 1 in a vacuum instead of properly interpreting the claims "in light of the specification as it would be interpreted by one of ordinary skill in the art." *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). Indeed, the rules of the PTO require that application claims must "conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description." 37 CFR 1.75(d)(1)

The relevant portion of Claim 1 recites that

"the parent and child are configured to share each of the assets using one of a set of modes consisting of: a first mode in which both the parent and child can utilize the asset, but only the parent can modify the asset, a second mode in which both the parent and child can utilize the asset, and both the parent and child can modify the asset, and a third mode in which the parent can utilize and modify the asset, but wherein the child can utilize the asset until the child attempts to modify the asset, at which time a copy of the asset is generated and the child can utilize and modify the copy of the asset".

As recited in the specification at paragraph [0026] the parent "can grant access to one or more of its assets using several different access modes"... "the set of assets can be shared on any of the three sharing modes which will be described herein" and that "any of the modes can be used with any of the children." (See Specification at paragraphs [0029], [0032]).

It can be seen that the language of Claim 1 reciting a parent and child configured to share each of a set of assets according to one of the set of modes, in light of the disclosure of the specification as it would be interpreted by one of ordinary skill in the art entails that the parent and child be operable to share each of the assets according to any one of the three modes. Thus, the Examiner has improperly interpreted the language of Claim 1 by disregarding the directive of the Federal Circuit that "claims must be read in view of the specification." *Phillips v. AWH Corporation*, No. 03-1269 (Fed. Cir. July 12, 2005). Here, when properly interpreted in light of the specification it is clear that the parent and child are operable

to share each of the assets according to all one of the three modes and any of the three modes may be chosen to share any particular asset.

As the Examiner has failed to show either in the Yahoo or the Nazem reference where "the parent and child are configured to share each of the assets using one of a set of modes consisting of:...a third mode in which the parent can utilize and modify the asset, but wherein the child can utilize the asset until the child attempts to modify the asset, at which time a copy of the asset is generated and the child can utilize and modify the copy of the asset" Applicant respectfully submits that the Examiner's rejection of Claim 1 must fail.

With respect to the limitations of Claim 1 actually addressed, the Examiner first asserts that the MyYahoo page is a child object of the main Yahoo page "because most of the data in MyYahoo data is derived from (shared with) the main Yahoo website (pages 1-11)." (See Examiner's Answer, Page 13) Again, the Examiner offers no proof for his assertions. In other words, the Examiner has asserted a premise (that most of the data in MyYahoo is derived or comes from (shared with) the main Yahoo web pages) for which he offers no supporting evidence or no particular locations within the prior art which prove his assertions and which the prior art gives no indication of supporting. From that baseless premise, then the Examiner draws the conclusion that the MyYahoo page is a child object of the main Yahoo page.

While Appellant concedes that Yahoo discloses that similar content that may be reached through a "Yahoo" page may also be displayed on a "My Yahoo" page there is nothing in Yahoo which discloses how this functionality is accomplished. More specifically, with respect to the Examiner's assertions, there is nothing in Yahoo which discloses that content is derived from, or comprises, assets which are shared between a "Yahoo" page and a "My Yahoo" page. For example, it is feasible that the "Yahoo" page and a "MyYahoo" page may display the same content by virtue of "copying the assets from one web site to another," instead of sharing an asset. (See, Application, Description of Related Art, Paragraph [0005]).

Additionally, to evidence a parent/child relationship between the Yahoo page and the MyYahoo page the Examiner asserts that "the MyYahoo website page depends on, and it's linked to the Yahoo page. In other words, the "MyYahoo page is a child page or object of Yahoo page, because it is hierarchically dependent or is under the main Yahoo website." (See Examiner's Answer, Page 13) Again notice with respect to this assertion that the Examiner has not provided any cites within the Yahoo prior art for support. In fact, there is no evidence or

disclosure within the Yahoo prior art that a MyYahoo page depends on or is linked to the Yahoo page, or that a MyYahoo page is hierarchically dependent or is under the main Yahoo website. Once again the Examiner is drawing flawed conclusions (e.g. "MyYahoo page is a child page or object of Yahoo page") based upon his own unjustified assumptions (e.g. "the MyYahoo website page depends on, and it's linked to the Yahoo page" and the MyYahoo page is hierarchically dependent or is under the main Yahoo website). There is no disclosure in the Yahoo prior art, and the Examiner has provided no citations to the Yahoo prior art, which discloses either that the MyYahoo page is hierarchically dependent or is under the main Yahoo website or that the MyYahoo page is linked to the Yahoo page. As the Examiner's premises are unjustified and unsupported, the conclusion which the Examiner draws that the MyYahoo page is a child of the Yahoo page is similarly flawed.

The Examiner also asserts with respect to the parent/child relationship that the main Yahoo website fathers the personalized website by providing the content to be presented to a user on the MyYahoo website. Again, the Examiner is making unsubstantiated assertions. There is nowhere in the Yahoo art that discloses that the Yahoo page provides the content that is presented to a user on the MyYahoo page. As discussed above it is feasible that the Yahoo page and a MyYahoo page may display similar content by virtue of "copying the assets from one web site to another," instead of sharing an asset. (See, Application, Description of Related Art, Paragraph [0005]). Copying of assets does not entail any sort of hierarchical relationship or "fathering", regardless of the assertions of the Examiner.

Consequently, contrary to the Examiner's assertions Yahoo does not disclose two or more web sites operating on the server wherein one of the web sites is a parent and one of the web sites is a child of the parent as recited by Claim 1, nor that assets are shared between the two websites as recited in Claim 1.

Moreover, as Yahoo does not disclose the sharing of assets, Yahoo certainly does not disclose that assets are shared "in a first mode in which both the parent and child can utilize the asset, but only the parent can modify the asset" or "a second mode in which both the parent and child can utilize the asset, and both the parent and child can modify the asset."

With respect to the limitation of Claim 1 pertaining to the "first mode in which both the parent and child can utilize the asset, but only the parent can modify the asset" the Examiner asserts that Yahoo discloses teaches that the main website contains assets, such as news,

weather, stock prices, sport scores, etc. which are shared with the personalized website. The Examiner further states that “[a] user is allowed to configure a version of the content provided in the Yahoo website so that it incorporates many of the content of the main website. However, there are certain assets such as the “MyYahoo” logo...that cannot be modified by the user personalizing the website. ” (See Examiner's Answer, Page 14)

Once again the Examiner asserts that the Yahoo prior art teaches certain limitations but provides no citations to support his assertion. Applicant notes that though the Examiner has both emboldened and underlined his assertion that a user is allowed to configure content provided in the Yahoo website and that there are certain assets such as the MyYahoo logo that cannot be modified by the user personalizing the websites there is no evidence in the Yahoo prior art that the assets that a user can configure to be presented on a MyYahoo page are in any way associated with a Yahoo page and the Examiner offers no evidence or citations which assert or prove the Examiner's beliefs as to what is occurring. Emboldening and underlining of an assertion does not provide the citation Applicant requires in order to determine where in the prior art the Examiner is relying on to disclose the limitation in question or provide an adequate explanation of how the Examiner believes the prior art to function. As stated many times elsewhere herein, there is nowhere in the Yahoo art that discloses that the Yahoo website provides the content to be presented to user on the MyYahoo website. Furthermore, it is not disclosed, and the Examiner provides no cites or explanation to prove, that the user is configuring a version of the content provided by the Yahoo website. Once again, it is just as possible that a user can configure a copy of the content to be displayed in the MyYahoo page. Consequently, Applicant believes that Yahoo does not disclose that assets are shared “in a first mode in which both the parent and child can utilize the asset, but only the parent can modify the asset”

Yahoo also does not disclose the sharing of assets in “a second mode in which both the parent and child can utilize the asset, and both the parent and child can modify the asset.” In his response to arguments the assertions of the Examiner with respect to this limitations state that “the main website and the users have the ability to configure the Yahoo website by deleting, relocating, etc the assets and the personalized website incorporates many of the same content found in the main website.”

Once again Applicant notes that nowhere in Yahoo does it teach that:

- 1) assets are shared between a main website and the personalized website, or
- 2) the main website and the users have the ability to configure the Yahoo website.

In fact, it seems to Applicant that it would be complicated and undesirable to give users with personalized websites the ability to configure content to be displayed on the (main) Yahoo page.

As can be seen then, despite the Examiner's assertions, the Yahoo prior art does not disclose at least the limitations of Claim 1 which recite the one of the web sites is a parent and one of the web sites is a child of the parent; and wherein the parent has one or more assets used in the presentation of the web site and wherein the parent and child are configured to share each of the assets using one of a set of modes consisting of: a first mode in which both the parent and child can utilize the asset, but only the parent can modify the asset, a second mode in which both the parent and child can utilize the asset, and both the parent and child can modify the asset.

Additionally, the Examiner has improperly interpreted the language of Claim 1 and incorrectly failed to cite to the prior art for the limitation of Claim 1 which recites a third mode in which the parent can utilize and modify the asset, but wherein the child can utilize the asset until the child attempts to modify the asset, at which time a copy of the asset is generated and the child can utilize and modify the copy of the asset.

5 Examiner Has Failed To Make A Prima Facie Case of Obviousness Under 35 U.S.C. §103 With Respect to Claim 1

As can be seen from the above argument the Yahoo reference on which the Examiner relies on for the disclosure of certain limitations of Claim 1 does not actually disclose these limitations. Additionally, with respect to Claim 1, the Examiner has not even bothered to point out in Yahoo (or indeed in the secondary Nazem reference) an entire limitation of Claim 1.

As the Examiner has failed to show both that the combination of the cited references discloses all the limitations of Claim 1 (and indeed has failed to point where one limitations is disclosed altogether) the Examiner has failed to meet the criteria set forth in M.P.E.P. 2143 for a

prima facie case of obviousness. Accordingly, the Appellant requests that the rejection of Claim 1 under 35 U.S.C. §103 be withdrawn.

6 Rejection of Claims 2-8, 17-19 and 21-30

With respect to the remainder of the Claims pending in this Appeal, the Applicant respectfully believes that the refutation of the Examiner's assertions pertaining to Claim 1 apply equally well. Thus, Applicant believes that the Examiner has failed to meet the criteria set forth in M.P.E.P. 2143 for a prima facie case of obviousness with respect to Claims 2-8, 17-19 and 21-30. Accordingly, the Appellant requests that the rejection of Claims 2-8, 17-19 and 21-30 under 35 U.S.C. §103 be withdrawn.

Additionally with respect to Claim 30, the Examiner has cited the Kelly reference for disclosing the limitation of Claim 30 which recites: a third mode in which the parent can utilize and modify the asset, but wherein the child can utilize the asset until the child attempts to modify the asset, at which time a copy of the asset is generated and the child can utilize and modify the copy of the asset. Notice as well with respect to Claim 30, that the parent and child here are websites in a parent/child relationship.

The Kelly reference, however, discloses a method for allowing a user to edit an HTML file used to produce a web page. A user may request a page from a web server and the HTML file may be sent to the user's computer. The HTML file (e.g. original source file) is rendered by the browser at the user's computer to produce a web page. If the user wishes to edit the web page the user may click an "Edit Content" link in the web page which causes an equivalent of a web page authoring application to be launched and provided to the user. When the application launches, a back up copy of the web page to be edited is made and an editable version of the web page is presented to the user who can edit fields of the editable web page. When the user is finished HTML is generated from the editable web page and saved over the original source file (e.g. the original HTML file rendered for the user). (See Kelly, Paragraphs [0067]-[0074])

The Examiner asserts that the Kelly reference discloses "a third mode in which the parent can utilize and modify the asset, but wherein the child can utilize the asset until the child attempts to modify the asset, at which time a copy of the asset is generated and the child can

utilize and modify the copy of the asset" because Kelly "teaches allowing a user to view a web page until an edit content link is selected. The server then produces a copy of the editable version of the web page and permitting the editable of the editable copy." (See Examiner's Answer, Page 15-16)

It seems that the Examiner is equating the limitation "until the child attempts to modify the asset" of Claim 30 with the user selecting an edit content link of a web page in Kelly. As the "child" of Claim 30 is a website it appears that the Examiner is comparing a user's selection of an edit content link with a website's attempt to modify a shared asset. Though apparently nonsensical it seems that in the Examiner's interpretation the user should be equated with a website (Claim 30 states "until the child attempts to modify the asset" to which the Examiner equates the selection of the edit content link by a user). Additionally, it seems as if the Examiner is comparing the original HTML file (which produces the web page) of Kelly to the asset to be modified of Claim 30. In this case, it is also unclear to the Applicant what are the parent and child (e.g. websites) which share this asset and how a parent website is modifying the HTML file before the user clicks on the edit content link.

Thus, Applicant does not believe that the Kelly prior art discloses the limitation of Claim 30 which recites "a third mode in which the parent can utilize and modify the asset, but wherein the child can utilize the asset until the child attempts to modify the asset, at which time a copy of the asset is generated and the child can utilize and modify the copy of the asset."

Furthermore, it is noted that the Examiner's lack of specificity with respect to the functionality of the Yahoo prior art or the combination of the Yahoo prior art and the Kelly reference has effectively precluded the Applicant from ascertaining the legitimacy of the Examiner's apparent reason for the combination of the two pieces of prior art, from evaluating whether the Yahoo prior art and Kelly reference could even be combined or determining if such a combination would be effective for its intended purpose.

Accordingly, in addition to the above reasons presented with respect to Claim 1, Applicant respectfully submits that the Kelly reference does not disclose the limitation of Claim 30 which recites a third mode in which the parent can utilize and modify the asset, but wherein the child can utilize the asset until the child attempts to modify the asset, at which time a copy of the asset is generated and the child can utilize and modify the copy of the asset." Thus, as the

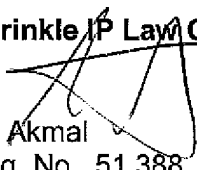
combination of the Yahoo prior art and the Kelly reference does not disclose all the limitations of Claim 30, Applicant respectfully requests the withdrawal of the rejection of Claim 30.

7 Conclusion

The Appellant therefore respectfully requests that all of the rejections be withdrawn and that all the pending Claims 1-8, 17-19 and 21-30 be allowed.

Respectfully submitted,

Sprinkle IP Law Group


Ari Akmal
Reg. No. 51,388

Dated: October 24, 2007

1301 W. 25th Street
Suite 408
Austin, Texas 78705
Tel. (512) 637-9220
Fax. (512) 371-9088